

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 117 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

KRISHNABEN H RUGHANI

Appearance:

MR KAMAL M MEHTA for Petitioners

MR AJ SHASTRI for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/02/98

ORAL JUDGEMENT

This revision application is directed against the order of the Civil Judge (S.D.), Porbandar, dated 9.12.1991 directing the State Government to deposit the amount of arrears of salary of the decree holder as per the calculation on or before 29.2.1992. The court also directed that the when the defendant fails to deposit the amount then the calculation given by the plaintiff will deem to be correct. The court also expressed that the

Secretary, Health Department will personally look into the matter.

I have heard Mr. Kamal Mehta, learned A.G.P. and Mr. Shastri, learned counsel for the respondent. The plaintiff's suit was decreed by the judgement and decree dated 30.1.1989 passed by the Civil Judge (S.D.), Porbandar. The order of the learned judge reads as follows:-

"Plaintiff's suit is hereby allowed, it is hereby declared that the defendant's order treating the plaintiff as relieved on 9/10-6-1977 and treating him as freshly appointed with one day breaks leave without pay and the action in not granting the required pay scale and granting him the minimum pay is illegal, arbitrary and is set aside. Consequently, it is further ordered that the plaintiff's service is to be treated, continuous from 3.5.1973 and she is entitled to get the pay, D.A., non-practising allowance as well as other allowance, which are admissible to the plaintiff. Dept. is hereby directed to pass necessary orders within two months. The defendant do pay the costs of the plaintiff and bears his own costs."

It is not in dispute that no appeal has been filed against that order. The plaintiff moved an execution application on which the court passed order on 9.12.1991 as follows:-

"The defendant has deposited only Rs. 17421.10, Rs. 2,17,038-00 are still dues. The defendant is hereby ordered and directed to deposit the amount of arrears of salary as per their calculation on or before 29.2.1992. If the defendant will fail to deposit the amount on the above stated date, the calculation given by the plaintiff in the attached schedule will be treated as genuine and a warrant of recovery of the above stated amount will be issued.

The Secretary, Health services (Medical services) or Govt. of Gujarat, Sachivalaya is directed to give personal attendance to finalise the matter.

The Commissioner, Health Services (Medical) Gandhinagar is also ordered and directed to see personally in the matter to finalise the matter on or before above stated date."

Having heard the learned counsel for the parties

and on perusal of the orders passed by the courts below, I do not find any illegality in the order. In view of this, the aforesaid Civil Revision Application is rejected. Rule discharged. Interim relief is vacated.

The Commissioner, Health Services, Government of Gujarat is directed to ensure the compliance of the decree within a period of two months from the date of receipt of the writ. It may be noticed that a decree has been passed as back as in 1989. If the decree is not complied with, the Secretary, Health Services is personally liable for all legal action available under the law. It will be open for the plaintiff to invite attention of this court by moving a proper application, if the decree is not complied with by the defendants.

00000

pkn.